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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,746	07/31/2001	Robert R. Bushey	P20419	2766
7055	7590	04/23/2004		
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191				
			EXAMINER AGDEPPA, HECTOR A	
			ART UNIT 2642	PAPER NUMBER 8
DATE MAILED: 04/23/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/917,746

Applicant(s)

BUSHEY ET AL.

Examiner

Hector A. Agdeppa

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 7/31/01, 10/31/01, 1/2/03, and 3/15/04.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-24 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 06 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3.6.7.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 2, 8 – 11, 17, 18, 20 – 22, and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6,487,277 (Beyda et al.)

As to claims 1, 17, and 20, Beyda et al. teaches an apparatus and associated method for improving the user interface of integrated voice response systems (IVR), wherein the IVR system provides for automatic updating of the order of menu options presented to user based on the frequency of options chosen by a particular caller, or a plurality of callers. (Abstract, Col. 2, line 48 – Col. 4, line 48)

Moreover, Beyda et al. teaches prompting a caller/user to select one of a plurality of options/messages from a menu and routing the call based on the caller's response to the prompting. (Col. 6, line 48 – Col. 8, line 37)

As to claims 2, 8, 11, 18, 21, 22, and 24, Beyda et al. also teaches the use of a first level menu, read as the first menu, having therein a plurality of options, as well as a plurality of lower level menus, read as the claimed sub menus, also having therein, a plurality of options. Note that because Beyda et al. uses a hierarchical method of

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organizing menus and options, each level may be a group/related options. (Fig. 3, Col. 6, line 37 – Col. 7, line 11, Col. 8, line 38 – Col. 10, line 17)

As to claims 9 and 10, see the above rejection of claim 1 and note that Beyda et al. does not specify that the most frequent hierarchy does not stop at any one level. Moreover, Beyda et al. teaches a plurality of methods by which the frequency may be monitored, analyzed, and applied. (Col. 8, line 67 – Col. 9, line 28)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 3 – 7, 12 – 16, 19, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,487,277 (Beyda et al.)

As to claims 3 – 7 and 12 – 16, Beyda et al. has been discussed above.

What Beyda et al. does not teach explicitly tasks related to the provisioning or modification of telephony services.

However, all the claimed limitations, i.e., billing, service changes, additions, deletions, account opening or closing, service reconnection or relocation, information gathering, are all very old and well known customer tasks that a customer may access/employ.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to have applied the system of Beyda et al. to a telephony service provisioning call center inasmuch as Beyda et al. contemplates and realizes that IVR call centers are generally used for airline reservations, banking, as well as utilities, of which telephone service is one, and even voice mail services. (Col. 1, lines 24 – 37)

Moreover, Beyda et al. also contemplates the usage of his system in an environment such as a company's human resource department wherein a caller/user could access the system to verify account balances, access payment information, gather benefits information, etc. Such is analogous to at least most of the claimed limitations, merely in a different environment. (Col. 2, lines 1 – 14)

As to claims 19 and 23, it is again, very old and well known for call centers/automatic call distributor systems to use an IVR system as a front-end to accessing agents. Such is done so as to narrow the number of agents appropriate for handling a call request. In other words, IVR systems are commonly used to query a customer about certain information using menus and prompts and once the customer's

request is sufficiently narrowed down, the customer is connected to an agent for final request handling.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to have integrated the use of agents into the system of Beyda et al. inasmuch as Beyda et al. focuses on the IVR aspect of a call center and as stated before, such could be used as a front-end for an agent-employing call center.

### ***Conclusion***


3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6,263,051 (Saylor et al.) teaches a system and method for a voice service bureau involving frequent choice prioritization of option menus. US 2003/0161,464 (Rodriguez et al.) teaches an on-hold information service with caller controlled personalized menu, wherein the menus and submenus are prioritized according to more frequent menu choices, after which a caller is connected to an agent.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hector A. Agdeppa whose telephone number is 703-305-1844. The examiner can normally be reached on Mon thru Fri 9:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on 703-305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.A.A.  
April 6, 2004

  
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